

**REMARKS/ARGUMENTS**

In the specification, the paragraph bridging pages 6 and 7 has been amended to correct minor editorial problems.

Claim 7 remains in this application. Claims 1-6 have been canceled.

The recent telephonic interview with the Examiner is hereby gratefully acknowledged. During the interview claim 1 was discussed principally. The substance of Claim 1 was compared to the Disclosure in the Vortex article and the Jensen patent on the Boat Ladder.

Briefly summarizing the Examiner's position, the Examiner stated that he did not believe he could allow a method claim such as Claim 1, nor was he impressed with the argument that the device provided by applicant was better appearing than the prior art devices.

The Examiner indicated that the requirement for amending the specification has been withdrawn.

In view of the position of the Examiner with respect to method claims, applicant has elected to proceed with Claim 7 which is an apparatus claim.

Claim 7 has been rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's disclosed prior art, Figure 3 and Figure 7 in view of Vortex For a Better Life.

With respect to applicant's admitted prior art, the Examiner refers to flat side panel 28; however, the element 28, shown in Figure 3, is merely described as a rear frame cover. There is no suggestion that this element is one of a pair of flat side panels or that it would suggest the idea of flat side panels.

The fact that the Vortex disclosure refers broadly to laser cutting of pieces of metal does not

show or suggest the construction of a frame for an exercise machine from a pair of parallel laser cut plates.

At the top of page 3 of the Office Action, the Examiner states “in regard to Claim 7 the general shape of the device having a heel portion, a vertical portion, a lower base portion and a seat portion is disclosed by the device shown in the prior art figure 3 and figure 7 of applicant’s disclosure.” On the other hand, Figures 3 and 7 of Applicant’s application are illustrations of the prior art and do not show or suggest the feature of providing a pair of flat laser cut plates forming the sides of a frame for an exercise machine. The fact that Figure 3 and 7 of Applicant’s disclosure might show or suggest a heel portion, a vertical portion, a lower base portion and a seat portion would not suggest that a pair of vertical flat laser cut sheets could be provided with such portions.

The mere fact the Jensen discloses a ladder having a pair of spaced apart side members and interconnecting cross members (steps or stairs) would not suggest the idea of constructing an exercise machine from a pair of flat laser cut sheet and interconnecting them with tabs and slots.

Claim 7 calls for a vertically flat frame for an exercise machine consisting essentially of a pair of laser cut sheets of steel of substantially identical shape connected together in spaced parallel relation to form several flat frame, the plates being held together in spaced parallel relation by a plurality of braces which extend across the width of the flat frame and around the periphery of the frame.

The Jensen patent merely relates to a ladder which is not suggestive of an exercise machine, particularly of the type disclosed and claimed in the present application. However, Applicant’s

Appl. No. 10/726,715  
Reply to Office action of Dec. 21, 2006

Claim 7 goes on to call for a heel portion, a vertical portion extending above the heel a lower base portion extending forwardly of the heel and a seat portion extending forwardly from the vertical portion above the base portion. Certainly, Jensen does not show or suggest these limitation. Finally, Claim 7 calls for the seat portion providing means for attaching a seat thereto and the upper portion above the seat providing a means for securing a back support thereto. These limitation are clearly not shown or suggested in the Jensen patent.

Claim 7 results in an exercise machine which is not only esthetically superior in appearance, but one which provides a cheaper method of manufacture as well as an ease of assembly and a savings in shipping costs, as described on page 5 of the original application.

#### **REQUEST FOR EXTENSION**

Applicant hereby requests a one month extension of the shortened statutory period for response and, accordingly a check in the amount of \$60.00 is attached hereto. In the event that this amount is not correct, the Commissioner is hereby authorized to credit any excess or charge any deficiency to Deposit Order Account 04-1410.

In view of all the foregoing it is respectfully requested that the Examiner allow Claim 7.

Respectfully submitted,



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Certificate of Mailing

I hereby certify that a true and correct copy of the above Amendment and check for the extension fee were mailed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on this 14<sup>th</sup> day of March, 2007.

A handwritten signature in black ink, appearing to read "Walter S. Lee".